



CRM-M-23567-2024

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**217 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-23567-2024

Date of decision: 5th August, 2024

Abhishek Sharma @ Abhi Sharma

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rajeev K. Kapila, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

Prayer in this petition has been made by the petitioner for granting benefit of regular bail in case arising out of FIR No. 131 dated 27.08.2023 registered under Section 376 of IPC, 1860 at Police Station Nangal, District Rupnagar on the basis of a written complaint filed by the prosecutrix 'R' (name withheld) alleging therein that she had come into contact with the petitioner in December, 2021 through Instagram App. They had become friends. In January, 2022, the prosecutrix had gone to Nangal to meet the petitioner on promise being given by him to perform marriage with her and on his insistence. The petitioner took her to some hotel wherein by alluring her on the pretext of performing marriage, he had forcibly maintained physical relations with her. Subsequently, also she was called by



him at different places and physical relations were maintained between them. While alleging that now the petitioner had stopped contacting her and blocked her phone. She prayed for taking action against him. After registration of FIR, investigation proceedings were initiated. Apprehending his arrest, the petitioner had moved an application for grant of pre-arrest bail. He was directed to join the investigation by this Court in CRM-M-48424-2023 filed by him. However, subsequently his application for grant of pre-arrest bail was dismissed. He is in custody since 09.04.2024. The petitioner moved an application for grant of regular bail before the Court of learned trial Court which had been dismissed vide order dated 02.05.2024.

2. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He had joined the investigation earlier. His custodial interrogation is no more required. The prosecutrix stands examined before the learned trial Court and has admitted that the petitioner never refused to marry her and infact, it was she who had refused to marry him. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. As such, it is urged that he deserves to be extended benefit of bail.

3. *Per contra*, learned State counsel has resisted the arguments addressed by learned counsel for the petitioner in terms of the status report by arguing that in view of the severity of the allegations as levelled against the petitioner, he does not deserve to be extended benefit of bail.

4. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record



carefully.

6. The petitioner is alleged to have induced the prosecutrix to enter into physical relationship with him on the pretext of performing marriage with her and is further alleged to have sexually exploited her and then backed out from the same. The prosecutrix has since been examined and copy of her sworn deposition has been placed on record. A cursory perusal of the same reveals that during cross-examination, contrary to her claim as made in the complaint that the petitioner had committed rape upon her on 02.01.2022 for the first time, she is shown to have stated that she had met him for the first time on 02.01.2023 and did not meet him before that date. Meaning thereby that she has contradicted the previous version given by her that she had met him and was subjected to rape by him on 02.01.2022. Then, she is also shown to have stated that the petitioner never refused to marry her and that she had refused to perform marriage with him earlier and even on the date of recording her statement in the Court. The petitioner is in custody since April, 2024. Prior to that also, he was on interim bail and it is revealed from the copies of orders of the trial Court placed on record the he never misused the concession of bail. The most material witness of the prosecution has since been examined. Keeping in view the nature of the statement of the prosecutrix that has come on record, it is a question of debate as to whether, it was a case of committing rape upon the prosecutrix by making false promise to marry her. This Court while deciding the petition for grant of regular bail, it is not required to adjudicate upon that question, since it is for the trial Court to decide the same after thorough assessment of



the evidence produced on record. However, still keeping in view the fact that the prosecutrix stands examined and in her sworn deposition, she herself has stated that the petitioner never refused to marry her, the period of incarceration of the petitioner and the fact that no male DNA was recovered on the vaginal swabs etc of the prosecutrix to ascertain the DNA contribution of the petitioner, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

8. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

5th August, 2024
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |